



New Jersey Department of Children and Families Policy Manual

Manual:	CP&P	Child Protection and Permanency	Effective Date:
Volume:	II	Intake, Investigation and Response	
Chapter:	C	Initial Response	5-10-2004
Subchapter:	7	Case Presentation	
Issuance:	100	Professional Witness Services	

Purpose:

This issuance establishes the policy and procedures related to professional or expert witness services and associated fees.

Policy:

A) Determination of Need 8-30-99

The Deputy Attorney General determines the need for an "expert witness," assisted by the Litigation Specialist, as needed. The judge may direct, or the law guardian (child's attorney) may suggest that an expert witness be obtained by CP&P and called to testify. The DAG works with the Local Office or IAIU in securing the expert witness. Area Office and/or Central Office administrative or support staff may assist, when needed.

B) Sharing Information and Reports 5-10-2004

Consult the DAG before providing any health-related information to an expert witness, to assure that information is shared by CP&P in strict compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The DAG may direct that an authorization to release information be signed and/or other actions be taken by CP&P to assure the client's right to privacy and confidentiality is respected under the Federal HIPAA law. Added precautions may apply if seeking to share psychotherapy notes.

Although CP&P may -- and often should -- provide background/case information to the expert witness, to allow him or her to make a comprehensive evaluation and an informed recommendation, staff shall not attempt to direct the findings or the recommendations of the expert witness.

C) Sharing Expert Witness Reports 5-10-2004

When a case is in litigation, any expert witness reports (medical reports, psychological or psychiatric evaluations, etc.) obtained by CP&P must be shared with all parties to the litigation. The DAG is responsible for providing copies of the report to the law guardian, the parent(s)'s attorney(s), and other counsel, as appropriate.

D) Payment 5-10-2004

CP&P pays for expert testimony only when necessary. It is often possible to secure the testimony of treating physicians at no cost. It may also be possible on occasion to secure the testimony of non-examining expert witnesses without fee. Because of the cost involved in paying expert witnesses, and the burden placed on experts who testify as a courtesy to CP&P, the field office and the Deputy Attorney General should make every effort to schedule such witnesses in a way that is reasonable and minimizes waiting time.

Departmental expert witnesses do not receive duplicate payment for testifying during normal working hours.

When CP&P pays for expert witness testimony or an in-depth evaluation or both for court, and the service is provided by a "one-time" non-contracted provider use the CP&P Form [K-100](#), Client Service Invoice. See [CP&P-IX-F-3-1200](#) for a completed sample.

Procedures:

A) Calculation of Payment 8-30-99

CP&P pays a fee based upon an hourly rate consistent with the usual compensation for the category of professional or technical expert in question. The Local Office is authorized to agree to such a rate. Time is computed from door to door, generally with a limit of one hour for travel time. The Area Office contracts with providers used repeatedly. At times CP&P may be court ordered to obtain a witness and/or pay for an evaluation for court (see [CP&P-IX-F-3-1200](#)).

B) Billing 8-30-99

If the witness served as a "one-time" non-contracted provider, he or she signs a completed CP&P Form [K-100](#), Client Service Invoice, for his or her fee.

If a provider completes an in-depth psychological or psychiatric evaluation for the court (see [CP&P-IX-F-3-1200](#)) and the provider is rendering this service as a

“one-time” non-contracted evaluation, he or she signs a completed CP&P Form [K-100](#), Client Service Invoice, for his or her fee. If the evaluation was court ordered, the Worker attaches a copy of the court order to the form once it is signed. (See completed sample at [CP&P-IX-F-3-1200](#)). Once the Local Office Manager approves, the LO processes the form. The form should only contain the fee for the court appearance; it should not contain fees for examining or treating the child.

If the provider of the in-depth psychological or psychiatric evaluation is a “contracted” provider, he or she submits charges for the service rendered on his or her monthly CP&P Form [K-100](#), Billing Spreadsheet, to the appropriate Local Office via the “[Secure Billing](#)” process.

If this is the first time the provider is used, have the provider complete a W9 - Vendor Identification Form. The provider forwards the W9 to the Department of Treasury, as instructed on the form. (The W9 form will allow the Department of Treasury to establish the provider on their vendor file, a prerequisite for check issuance.)

C) Procedures Related to Sharing of Expert Witness Reports

The Worker or Supervisor, upon consultation with the Litigation Specialist, is responsible for providing the appropriate number of copies of the expert witness' report, as requested by the DAG, as soon as the report is received by the Division.

If CP&P staff disagree with the findings or recommendation report of an expert witness, contact the DAG immediately to determine whether to consult another expert. The DAG is responsible for determining how the report is to be shared with the other parties to the litigation.

Conference with the DAG any information obtained after the completion of a report that could directly impact on the expert witness' evaluation and/or recommendations, to determine how that information is to be disseminated.

D) Procedures Related to Obtaining and Paying an Expert Witness 5-10-2004

Responsibility	Action Required
Deputy Attorney General	<ol style="list-style-type: none">1. Determine that an expert witness' testimony is essential to the State's case.2. Discuss confidentiality concerns with the Worker, Supervisor or Litigation Specialist in accordance

	with the HIPAA law before CP&P provides any health-related background/case information to the expert witness.
Worker	<ol style="list-style-type: none"> 3. Secure the expert witness with the aid of the Deputy Attorney General. Seek assistance from CP&P administrative/managerial/support staff, when necessary. 4. Take action, as prescribed by the DAG, to assure client's right to privacy/confidentiality is respected. 5. Request the expert witness to testify without payment of fee. 6. Advise the expert witness that payment is based on an hourly rate consistent with the usual compensation for the category of professional or technical expert in question. 7. Compute time from door-to-door, generally limiting travel time to one hour. 8. Prepare CP&P Form K-100, Client Service Invoice, for a one time service. Forward the CP&P Form K-100 to the expert witness. 9. Provide a W9 - Vendor Identification Form to the expert witness.
Expert Witness	<ol style="list-style-type: none"> 10. Complete W9 - Vendor Identification Form. Send form, once completed, to the Department of Treasury. 11. Sign CP&P Form K-100 for presentation of fee. Return to LO. 12. Attach court order to completed CP&P Form K-100 when CP&P is ordered to obtain the witness, pay for an evaluation for court, etc. 13. Approve CP&P Form K-100 via signature in the appropriate space. Forward form to clerical. 14. Process the signed, approved CP&P Form K-100 for payment in accordance with form instructions.

Key Terms (Definitions):

"Expert Witness" means is a person with professional training or technical expertise who gives testimony during litigation. This includes, for example, a physician who has treated a child who is the subject of litigation as well as a non-examining physician who will simply offer opinion testimony based upon hypothetical facts. The role of the expert witness is to provide the court with objective findings and/or recommendations.

"Fees" may include reimbursement for services including live testimony at court on behalf of the Division, transportation to and from court (with time computed from door to door, generally with a limit of one hour for travel time), waiting time at court, and time spent in preparation for court/testimony, including but not limited to consultation with CP&P field staff (assigned Worker or Supervisor), the Litigation Specialist and/or the Deputy Attorney General (DAG).